

ALD-317

July 19, 2007

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. **07-1295**

ANTHONY MCFERREN

VS.

SUPERINTENDENT TENNIS, ET AL.

(W.D. PA. CIV. NO. 05-CV-00066)

Present: SLOVITER, CHAGARES AND GREENBERG, CIRCUIT JUDGES

Submitted are

- (1) Appellant's request for a certificate of appealability under 28 U.S.C. § 2253(c)(1); and
- (2) Appellee's response

in the above-captioned case.

Respectfully,

Clerk

MMW/TRA/zm/clw

ORDER

The foregoing application for a certificate of appealability is denied. Anthony McFerren has not made a substantial showing of the denial of a constitutional right. See 28 U.S.C. § 2253. Reasonable jurists would not debate whether the District Court was correct in denying McFerren's petition. See Miller-El v. Cockrell, 573 U.S. 322, 338 (2003) (citing Slack v. McDaniel, 529 U.S. 473, 484 (2000)). For the reasons given by the District Court, McFerren's claims of ineffective assistance of counsel and his claim under Brady v. Maryland, 373 U.S. 83 (1963), are without merit. Despite McFerren's argument to the contrary, we find no procedural irregularity in the District Court proceedings.

By the Court,

/s/ Morton I. Greenberg

Circuit Judge

A True Copy



Dated: July 26, 2007

CLW/cc: Anthony McFerren, Esq.

Douglas W. Ferguson, Esq.

Marcia M. Waldron

Marcia M. Waldron, Clerk